

AMENDED IN ASSEMBLY MAY 10, 2006

AMENDED IN ASSEMBLY MAY 3, 2006

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2573

Introduced by Assembly Member Leno

February 23, 2006

An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as amended, Leno. Electricity: Hetch Hetchy Water and Power solar generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar generation facilities, and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for the certain electricity generated and delivered to the electric grid in accordance with specified rate criteria. Existing law provides that the HHWP photovoltaic electricity generation facilities may not exceed 5 megawatts of peak generation capacity in total. Existing law provides that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. Existing law provides that where, after a true-up process is completed, the total

electricity delivered to the site by PG&E is less than the total electricity delivered to the grid by the HHWP photovoltaic facility at the site, the City and County of San Francisco is a net energy producer at that site and receives no credit or offset for the excess electricity exported to the grid from the site.

This bill would authorize 2 different HHWP photovoltaic electricity generation mechanisms. The existing authorization, as modified, would apply to HHWP at-site solar generation, as defined. The bill would provide that HHWP at-site solar generation may not, exclusive of qualifying remote new load, as defined, exceed 15 megawatts of peak generation capacity in total. The bill would additionally authorize the City and County of San Francisco to use HHWP remote solar generation, as defined, to supply electricity to qualifying remote new load by designating those facilities to be served by HHWP remote solar generation. The bill would delete the provision that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. The bill would require that PG&E accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously being used by the qualifying remote new load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote new load. *The bill would require that the delivery of electricity by HHWP remote solar generation to qualifying remote new load, and the granting of offsets to the City and County of San Francisco, not result in a net shifting of costs to bundled service customers of Pacific Gas and Electric Company.*

Existing law provides that if the City and County of San Francisco engages in retail sales to customers within the service territory of PG&E, the above described provisions relative to HHWP solar generation become inoperative.

This bill would delete this provision.

(2) The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(3) Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of this bill would require the filing of a new tariff, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2828 of the Public Utilities Code is
2 amended to read:

3 2828. (a) As used in this section, the following terms have
4 the following meanings:

5 (1) “Environmental attributes” associated with the Hetch
6 Hetchy Water and Power (HHWP) at-site solar generation and
7 HHWP remote solar generation include, but are not limited to,
8 the credits, benefits, emissions reductions, environmental air
9 quality credits, and emissions reduction credits, offsets, and
10 allowances, however entitled, resulting from the avoidance of the
11 emission of any gas, chemical, or other substance attributable to
12 the Hetch Hetchy Water and Power photovoltaic electricity
13 generation facility owned by the City and County of San
14 Francisco.

15 (2) “HHWP at-site solar generation” means the electricity
16 generated by Hetch Hetchy Water and Power photovoltaic
17 electricity generation facilities owned by the City and County of
18 San Francisco, designated by the City and County of San
19 Francisco pursuant to subdivision (b).

20 (3) “HHWP remote solar generation” means the electricity
21 generated by Hetch Hetchy Water and Power photovoltaic
22 electricity generation facilities owned by the City and County of
23 San Francisco, designated by the City and County of San
24 Francisco pursuant to subdivision (h), to provide electricity to
25 qualifying remote new load.

1 (4) “Interconnection Agreement” means the 1987 agreement
2 between Pacific Gas and Electric Company and the City and
3 County of San Francisco, as filed with and accepted by the
4 Federal Energy Regulatory Commission (FERC), and as
5 amended from time to time with FERC approval, which provides
6 for rates for transmission, distribution, and sales of supplemental
7 electricity to the City and County of San Francisco. Nothing in
8 this section shall waive or modify the rights of parties under the
9 Interconnection Agreement or the jurisdiction of the FERC over
10 rates set forth in the Interconnection Agreement.

11 (5) “Appropriate TOU tariff” means the Time-of-Use tariff
12 that would be applicable to the City and County of San Francisco
13 account at the photovoltaic project site if the facility at the site
14 were a Pacific Gas and Electric Company bundled customer, as
15 determined by Pacific Gas and Electric Company.

16 (6) “Qualifying remote new load” means electricity demand of
17 the City and County of San Francisco for public purposes
18 pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a
19 site that is separate from, and not adjacent to, the site where the
20 photovoltaic project is located, and serviced through a meter or
21 multiple meters other than those serving the site where the
22 photovoltaic project is located. The separate or remote site may
23 be designated by the City and County of San Francisco, both
24 inside and outside of the City and County of San Francisco, at a
25 facility that begins operations after January 1, 2006. There is no
26 wattage limit on qualifying remote new load.

27 (b) The City and County of San Francisco may elect to
28 designate specific photovoltaic electricity generation facilities as
29 HHWP at-site solar generation, if all of the following conditions
30 are met:

31 (1) Total peak generating capacity does not exceed 15
32 megawatts.

33 (2) The photovoltaic project utilizes a meter, or multiple
34 meters, capable of separately measuring electricity flow in both
35 directions. All meters shall provide “time-of-use” measurement
36 information. If the existing meter at the site of the photovoltaic
37 project is not capable of providing time-of-use information or is
38 not capable of separately measuring total flow of energy in both
39 directions, the City and County of San Francisco is responsible
40 for all expenses involved in purchasing and installing a meter or

1 meters that are both capable of providing time-of-use information
2 and able to separately measure total electricity flow in both
3 directions.

4 (3) The amount of all electricity delivered to the electric grid
5 by the designated HHWP at-site solar generation is the property
6 of Pacific Gas and Electric Company.

7 (4) The City and County of San Francisco does not sell
8 electricity delivered to the electric grid from the designated
9 HHWP at-site solar generation to a third party.

10 (c) For each site of a photovoltaic project that comprises the
11 HHWP at-site solar generation, Pacific Gas and Electric
12 Company shall identify the appropriate TOU tariff for that site.
13 Any electricity exported to the Pacific Gas and Electric Company
14 grid at that site that is not generated from HHWP remote solar
15 generation pursuant to subdivision (h) shall, for each time-of-use
16 period, result in a monetary credit to be applied monthly as a
17 credit or offset against the invoice created pursuant to the
18 Interconnection Agreement and shall be valued at the generation
19 component of the appropriate TOU tariff. The commission shall
20 determine if it is appropriate to increase the credit to reflect any
21 additional value derived from the location or the environmental
22 attributes of, the designated HHWP at-site solar generation.

23 (d) Monthly charges and credit amounts for HHWP at-site
24 solar generation are interim and subject to an accounting true-up,
25 consistent with commission policies and practices. The true-up
26 shall be performed annually or upon the termination, for any
27 reason, of the Interconnection Agreement. The true-up shall
28 accomplish the following:

29 (1) If the total electricity delivered to the site by Pacific Gas
30 and Electric Company since the previous true-up equals or
31 exceeds the total electricity exported to the grid by the HHWP
32 at-site solar generation facility at the site, the City and County of
33 San Francisco is a net electricity consumer at that site. For any
34 HHWP at-site solar generation site where the City and County of
35 San Francisco is a net electricity consumer, a credit or offset
36 shall be applied to reduce the obligations of the City and County
37 of San Francisco to an invoice prepared pursuant to the
38 Interconnection Agreement. If there is no invoiced obligation to
39 be reduced, there is no applicable credit.

1 (2) If the total electricity delivered to the site by Pacific Gas
2 and Electric Company since the previous true-up is less than the
3 total electricity exported to the grid by the HHWP at-site solar
4 generation facility at the site, the City and County of San
5 Francisco is a net electricity producer at that site. For any HHWP
6 at-site solar generation site where the City and County of San
7 Francisco is a net electricity producer, the City and County of
8 San Francisco shall receive no credit or offset for the electricity
9 exported to the grid in excess of the electricity delivered to the
10 site from the grid. For any site where the City and County of San
11 Francisco is a net electricity producer, the City and County of
12 San Francisco shall receive a credit or offset up to the amount of
13 electricity delivered to the site from the grid. The credit or offset
14 shall be applied to reduce the obligations of the City and County
15 of San Francisco to an invoice prepared pursuant to the
16 Interconnection Agreement. If there is no invoiced obligation to
17 be reduced, there is no applicable credit or offset. Pacific Gas and
18 Electric Company shall use the last-in, first-out method to
19 determine what electricity delivered to the grid from the site will
20 not earn a credit or offset.

21 (e) Pursuant to this section, the offset to charges under the
22 Interconnection Agreement is the medium to convey credits
23 earned under this section. Nothing in this section shall be
24 construed to affect in any way the rights and obligations of the
25 City and County of San Francisco and Pacific Gas and Electric
26 Company under the Interconnection Agreement. If the
27 Interconnection Agreement terminates, the City and County of
28 San Francisco and Pacific Gas and Electric Company shall
29 develop an alternative mechanism to convey credits earned under
30 this section, in a manner that accomplishes the same result as that
31 accomplished pursuant to the Interconnection Agreement.

32 (f) (1) Pacific Gas and Electric Company shall file an advice
33 letter with the commission, that complies with this section, not
34 later than 10 days after the City and County of San Francisco
35 first designates the specific generation facilities that will
36 comprise HHWP at-site solar generation.

37 (2) The commission, within 30 days of the date of filing of the
38 advice letter, shall approve the advice letter or specify
39 conforming changes to be made by Pacific Gas and Electric
40 Company to be filed in an amended advice letter within 30 days.

1 (g) The City and County of San Francisco may terminate its
2 election pursuant to subdivisions (b), (c), and (d), upon providing
3 Pacific Gas and Electric Company with a minimum of 60 days'
4 written notice.

5 (h) (1) The City and County of San Francisco may elect to
6 designate specific photovoltaic electricity generation facilities as
7 HHWP remote solar generation and may use HHWP remote solar
8 generation to supply electricity to facilities designated as
9 qualifying remote new load up to the amount of electricity being
10 used by the qualifying remote new load.

11 (2) The City and County of San Francisco shall receive no
12 credit or offset for the electricity exported to the grid from
13 HHWP remote solar generation, in excess of the electricity
14 delivered from the grid to qualifying remote new load.

15 (3) Pacific Gas and Electric Company shall accept any
16 electricity exported to the grid by HHWP remote solar
17 generation, up to the amount of electricity contemporaneously
18 being used by the qualifying remote new load, and treat the
19 electricity accepted as behind the meter generation that offsets
20 the electrical usage of qualifying remote new load.

21 (4) ~~The appropriate regulatory agency shall ensure that the~~
22 ~~delivery of electricity by HHWP remote solar generation to~~
23 ~~qualifying remote new load, and the granting of offsets to the~~
24 ~~City and County of San Francisco pursuant to this subdivision,~~
25 ~~does not result in a~~ *shall not result in a net* shifting of costs to
26 bundled service customers, either immediately or over time.

27 (i) Hetch Hetchy Water and Power shall reimburse Pacific Gas
28 and Electric Company for its reasonable study costs associated
29 with HHWP remote solar generation to address interconnection,
30 consistent with Rule 21, and impacts upon the distribution
31 system resulting from the HHWP remote solar generation. If the
32 studies identify improvements necessary for the protection of the
33 Pacific Gas and Electric Company distribution system, for the
34 protection of its employees, or to ensure reliable delivery of the
35 electricity generated by the HHWP remote solar generation
36 facility to qualifying remote new load, Hetch Hetchy Water and
37 Power shall pay the reasonable costs of the improvements if it
38 elects to designate the HHWP remote solar generation facility to
39 provide electricity for qualifying remote new load. For purposes
40 of this subdivision, "Rule 21" means the Interconnection

1 Standards for distributed generation adopted by the commission
2 in Decision 00-11-001 and Decision 00-12-037, as modified by
3 the commission and implemented in commission-authorized
4 tariff Rule 21.

5 (j) Ownership and use of the environmental attributes
6 associated with the electricity delivered to the electric grid by
7 HHWP at-site solar generation and HHWP remote solar
8 generation shall be determined by the commission in accordance
9 with Article 16 (commencing with Section 399.11) of Chapter
10 2.3 of Part 1.

11 SEC. 2. The Legislature finds and declares that, because of
12 the unique circumstances applicable only to Hetch Hetchy Water
13 and Power solar generation of electricity, a statute of general
14 applicability cannot be enacted within the meaning of
15 subdivision (b) of Section 16 of Article IV of the California
16 Constitution. Therefore, this special statute is necessary.

17 SEC. 3. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the
22 penalty for a crime or infraction, within the meaning of Section
23 17556 of the Government Code, or changes the definition of a
24 crime within the meaning of Section 6 of Article XIII B of the
25 California Constitution.